

Introduced by Senator Torlakson

February 18, 2004

An act to amend Sections 65863.10 and 65863.11 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1328, as introduced, Torlakson. Housing: tenants: notices.

(1) Existing law, until January 1, 2011, requires, prior to the anticipated date of the termination of a subsidy contract, expiration of rental restrictions, or prepayment on an assisted housing development, as defined, that the owner proposing the termination, as defined, or prepayment of governmental assistance or the owner of an assisted housing development, as defined, in which there will be the expiration of rental restrictions provide a notice of the proposed change to each affected tenant household residing in the assisted housing development and to the affected public entities. Those defined terms are limited to certain federal subsidy programs.

This bill would include additional state, local, or private subsidy programs within the definitions of "assisted housing development," "prepayment," and "termination" for those purposes.

(2) Existing law provides that an owner of an assisted housing development shall not sell, or otherwise dispose of, the development in a manner that would result in either (a) a discontinuance of its use as an assisted housing development, or (b) the termination or expiration of any low-income use restrictions that apply to the development, unless the owner or its agent shall first have provided specified entities an opportunity to submit an offer to purchase the development.

This bill would delete the conditions specified in (a) and (b), above, thereby extending the prohibition to all assisted housing developments.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65863.10 of the Government Code is
2 amended to read:
3 65863.10. (a) As used in this section, the following terms
4 have the following meaning:
5 (1) “Affected public entities” means the mayor of the city in
6 which the assisted housing development is located, or, if located
7 in an unincorporated area, the chair of the board of supervisors of
8 the county; the appropriate local public housing authority, if any;
9 and the Department of Housing and Community Development.
10 (2) “Affected tenant” means a tenant household residing in an
11 assisted housing development, as defined in paragraph (3), at the
12 time notice is required to be provided pursuant to this section, that
13 benefits from the government assistance.
14 (3) “Assisted housing development” means a multifamily
15 rental housing development that receives governmental assistance
16 under any of the following ~~federal~~ programs:
17 (A) New construction, substantial rehabilitation, moderate
18 rehabilitation, property disposition, and loan management
19 set-aside programs, or any other program providing project-based
20 assistance, under Section 8 of the United States Housing Act of
21 1937, as amended (42 U.S.C. Sec. 1437f).
22 (B) The following federal programs:
23 (i) The Below-Market-Interest-Rate Program under Section
24 221(d)(3) of the National Housing Act (12 U.S.C. Sec. 1715l(d)(3)
25 and (5)).
26 (ii) Section 236 of the National Housing Act (12 U.S.C. Sec.
27 1715z-1).
28 (iii) Section 202 of the Housing Act of 1959 (12 U.S.C. Sec.
29 1701q).
30 (C) Programs for rent supplement assistance under Section 101
31 of the Housing and Urban Development Act of 1965, as amended
32 (12 U.S.C. Sec. 1701s).
33 (D) Programs under Section 515 of the Housing Act of 1949,
34 as amended (42 U.S.C. Sec. 1485).
35 (E) Section 42 of the Internal Revenue Code.

1 (F) Any other federal, state, or local government subsidy
2 program or private, nongovernmental subsidy program that is
3 subject to the termination of a subsidy contract, the expiration of
4 rental restrictions, or prepayment on an assisted housing
5 development.

6 (4) “City” means a general law city, a charter city, or a city and
7 county.

8 (5) “Expiration of rental restrictions” means the expiration of
9 rental restrictions for an assisted housing development described
10 in subparagraph (E) or (F) of paragraph (3) unless the
11 development has other recorded agreements restricting the rent to
12 the same or lesser levels for at least 50 percent of the units.

13 (6) “Prepayment” means the payment in full or refinancing of
14 the federally insured or federally held mortgage indebtedness prior
15 to its original maturity date, or the voluntary cancellation of
16 mortgage insurance, on an assisted housing development
17 described in subparagraph (B) or (F) of paragraph (3) that would
18 have the effect of removing the current low-income affordability
19 restrictions contained in the applicable laws and the regulatory
20 agreement.

21 (7) “Termination” means an owner’s decision not to extend or
22 renew its participation in a federal, state, or local government
23 subsidy program or private, nongovernmental subsidy program
24 for an assisted housing development described in subparagraph
25 (A) or (F) of paragraph (3), either at or prior to the scheduled date
26 of the expiration of the contract, that may result in an increase in
27 tenant rents or a change in the form of the subsidy from
28 project-based to tenant-based.

29 (b) (1) At least 12 months prior to the anticipated date of the
30 termination of a subsidy contract, the expiration of rental
31 restrictions, or prepayment on an assisted housing development,
32 the owner proposing the termination or prepayment of
33 governmental assistance or the owner of an assisted housing
34 development in which there will be the expiration of rental
35 restrictions shall provide a notice of the proposed change to each
36 affected tenant household residing in the assisted housing
37 development at the time the notice is provided and to the affected
38 public entities. An owner who meets the requirements of Section
39 65863.13 shall be exempt from providing that notice. The notice
40 shall contain all of the following:

1 (A) In the event of termination, a statement that the owner
2 intends to terminate the subsidy contract or rental restrictions upon
3 its expiration date, or the expiration date of any contract extension
4 thereto.

5 (B) In the event of the expiration of rental restrictions, a
6 statement that the restrictions will expire and whether the owner
7 intends to increase rents greater than permitted under Section 42
8 of the Internal Revenue Code.

9 (C) In the event of prepayment, a statement that the owner
10 intends to pay in full or refinance the federally insured or federally
11 held mortgage indebtedness prior to its original maturity date, or
12 voluntarily cancel the mortgage insurance.

13 (D) The anticipated date of the termination, prepayment of the
14 federal *or other* program or expiration of rental restrictions, and
15 the identity of the federal *or other* program described in
16 subdivision (a).

17 (E) A statement that the proposed change would have the effect
18 of removing the current low-income affordability restrictions in
19 the applicable contract or regulatory agreement.

20 (F) A statement of the possibility that the housing may remain
21 in the federal *or other* program after the proposed date of
22 termination of the subsidy contract or prepayment if the owner
23 elects to do so under the terms of the federal government's *or other*
24 *program operator's* offer.

25 (G) A statement that other governmental assistance may be
26 provided to tenants residing in the development at the time of the
27 termination of the subsidy contract or prepayment.

28 (H) A statement that a subsequent notice of the proposed
29 change, including anticipated changes in rents, if any, for the
30 development, will be provided at least six months prior to the
31 anticipated date of termination of the subsidy contract, or
32 expiration of rental restrictions, or prepayment.

33 (I) A statement of notice of opportunity to submit an offer to
34 purchase, as required in Section 65863.11.

35 (2) Notwithstanding paragraph (1), if an owner provides a copy
36 of a federally required notice of termination of a subsidy contract
37 or prepayment at least 12 months prior to the proposed change to
38 each affected tenant household residing in the assisted housing
39 development at the time the notice is provided and to the affected
40 public entities, the owner shall be deemed in compliance with this



subdivision, if the notice is in compliance with all federal laws. However, the federally required notice does not satisfy the requirements of Section 65863.11.

(c) (1) At least six months prior to the anticipated date of termination of a subsidy contract, expiration of rental restrictions or prepayment on an assisted housing development, the owner proposing the termination or prepayment of governmental assistance or the owner of an assisted housing development in which there will be the expiration of rental restrictions under Section 42 of the Internal Revenue Code shall provide a notice of the proposed change to each affected tenant household residing in the assisted housing development at the time the notice is provided and to the affected public entities. An owner who meets the requirements of Section 65863.13 shall be exempt from providing that notice.

(2) The notice to the tenants shall contain all of the following:

(A) The anticipated date of the termination or prepayment of the federal *or other* program, or *the* expiration of rental restrictions, and the identity of the federal *or other* program, as described in subdivision (a).

(B) The current rent and anticipated new rent for the unit on the date of the prepayment or termination of the federal *or other* program, or expiration of rental restrictions.

(C) A statement that a copy of the notice will be sent to the city, county, or city and county, where the assisted housing development is located, to the appropriate local public housing authority, if any, and to the Department of Housing and Community Development.

(D) A statement of the possibility that the housing may remain in the federal *or other* program after the proposed date of subsidy termination or prepayment if the owner elects to do so under the terms of the federal government's *or other program operator's* offer or that a rent increase may not take place due to the expiration of rental restrictions.

(E) A statement of the owner's intention to participate in any current replacement-federal subsidy program made available to the affected tenants.

(F) The name and telephone number of the city, county, or city and county, the appropriate local public housing authority, if any, the Department of Housing and Community Development, and a

1 legal services organization, that can be contacted to request
2 additional written information about an owner's responsibilities
3 and the rights and options of an affected tenant.

4 (3) In addition to the information provided in the notice to the
5 affected tenant, the notice to the affected public entities shall
6 contain information regarding the number of affected tenants in
7 the project, the number of units that are government assisted and
8 the type of assistance, the number of the units that are not
9 government assisted, the number of bedrooms in each unit that is
10 government assisted, and the ages and income of the affected
11 tenants. The notice shall briefly describe the owner's plans for the
12 project, including any timetables or deadlines for actions to be
13 taken and specific governmental approvals that are required to be
14 obtained, the reason the owner seeks to terminate the subsidy
15 contract or prepay the mortgage, and any contacts the owner has
16 made or is making with other governmental agencies or other
17 interested parties in connection with the notice. The owner shall
18 also attach a copy of any federally required notice of the
19 termination of the subsidy contract or prepayment that was
20 provided at least six months prior to the proposed change. The
21 information contained in the notice shall be based on data that is
22 reasonably available from existing written tenant and project
23 records.

24 (d) The owner proposing the termination or prepayment of
25 governmental assistance or the owner of an assisted housing
26 development in which there will be the expiration of rental
27 restrictions under Section 42 of the Internal Revenue Code shall
28 provide additional notice of any significant changes to the notice
29 required by subdivision (c) within seven business days to each
30 affected tenant household residing in the assisted housing
31 development at the time the notice is provided and to the affected
32 public entities. "Significant changes" shall include, but not be
33 limited to, any changes to the date of termination or prepayment,
34 or expiration of rental restrictions or the anticipated new rent.

35 (e) An owner who is subject to the requirements of this section
36 shall also provide a copy of any notices issued to existing tenants
37 pursuant to subdivision (b), (c), or (d) to any prospective tenant at
38 the time he or she is interviewed for eligibility.

39 (f) This section shall not require the owner to obtain or acquire
40 additional information that is not contained in the existing tenant



1 and project records, or to update any information in his or her
2 records. The owner shall not be held liable for any inaccuracies
3 contained in these records or from other sources, nor shall the
4 owner be liable to any party for providing this information.

5 (g) For purposes of this section, service of the notice to the
6 affected tenants, the city, county, or city and county, the
7 appropriate local public housing authority, if any, and the
8 Department of Housing and Community Development by the
9 owner pursuant to subdivisions (b) to (e), inclusive, shall be made
10 by first-class mail postage prepaid.

11 (h) Nothing in this section shall enlarge or diminish the
12 authority, if any, that a city, county, city and county, affected
13 tenant, or owner may have, independent of this section.

14 (i) If, prior to January 1, 2001, the owner has already accepted
15 a bona fide offer from a qualified entity, as defined in subdivision
16 (c) of Section 65863.11, and has complied with this section as it
17 existed prior to January 1, 2001, at the time the owner decides to
18 sell or otherwise dispose of the development, the owner shall be
19 deemed in compliance with this section.

20 (j) Injunctive relief shall be available to any party identified in
21 paragraph (1) or (2) of subdivision (a) who is aggrieved by a
22 violation of this section.

23 (k) The Director of Housing and Community Development
24 shall approve forms to be used by owners to comply with
25 subdivisions (b) and (c). Once the director has approved the forms,
26 an owner shall use the approved forms to comply with
27 subdivisions (b) and (c).

28 (l) This section shall remain in effect only until January 1,
29 2011, and as of that date is repealed, unless a later enacted statute,
30 which is enacted on or before January 1, 2011, deletes or extends
31 that date.

32 SEC. 2. Section 65863.11 of the Government Code is
33 amended to read:

34 65863.11. (a) Terms used in this section shall be defined as
35 follows:

36 (1) “Assisted housing development” and “development”
37 mean a multifamily rental housing development as defined in
38 paragraph (3) of subdivision (a) of Section 65863.10.



(2) “Owner” means an individual, corporation, association, partnership, joint venture, or business entity that holds title to an assisted housing development.

(3) “Tenant” means a tenant, subtenant, lessee, sublessee, or other person legally in possession or occupying the assisted housing development.

(4) “Tenant association” means a group of tenants who have formed a nonprofit corporation, cooperative corporation, or other entity or organization, or a local nonprofit, regional, or national organization whose purpose includes the acquisition of an assisted housing development and that represents the interest of at least a majority of the tenants in the assisted housing development.

(5) “Low or moderate income” means having an income as defined in Section 50093 of the Health and Safety Code.

(6) “Very low income” means having an income as defined in Section 50052.5 of the Health and Safety Code.

(7) “Local nonprofit organizations” means not-for-profit corporations organized pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code, that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of low or moderate income and very low income, and which have a broadly representative board, a majority of whose members are community based and have a proven track record of local community service.

(8) “Local public agencies” means housing authorities, redevelopment agencies, or any other agency of a city, county, or city and county, whether general law or chartered, which are authorized to own, develop, or manage housing or community development projects for persons and families of low or moderate income and very low income.

(9) “Regional or national organizations” means not-for-profit, charitable corporations organized on a multicounty, state, or multistate basis that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of low or moderate income and very low income.

(10) “Regional or national public agencies” means multicounty, state, or multistate agencies that are authorized to own, develop, or manage housing or community development

1 projects for persons and families of low or moderate income and
2 very low income.

3 (11) “Use restriction” means any federal, state, or local statute,
4 regulation, ordinance, or contract that, as a condition of receipt of
5 any housing assistance, including a rental subsidy, mortgage
6 subsidy, or mortgage insurance, to an assisted housing
7 development, establishes maximum limitations on tenant income
8 as a condition of eligibility for occupancy of the units within a
9 development, imposes any restrictions on the maximum rents that
10 could be charged for any of the units within a development; or
11 requires that rents for any of the units within a development be
12 reviewed by any governmental body or agency before the rents are
13 implemented.

14 (12) “Profit-motivated organizations and individuals” means
15 individuals or two or more persons organized pursuant to Division
16 1 (commencing with Section 100) of Title 1 of, Division 3
17 (commencing with Section 1200) of Title 1 of, or Division 1
18 (commencing with Section 15001) of Title 2 of, the Corporations
19 Code, that carry on as a business for profit.

20 (13) “Department” means the Department of Housing and
21 Community Development.

22 (14) “Offer to purchase” means an offer from a qualified or
23 nonqualified entity that is nonbinding on the owner.

24 (15) “Expiration of rental restrictions” has the meaning given
25 in paragraph (5) of subdivision (a) of Section 65863.10.

26 (b) An owner of an assisted housing development shall not
27 terminate a subsidy contract or prepay the mortgage pursuant to
28 Section 65863.10, unless the owner or its agent shall first have
29 provided each of the entities listed in subdivision (d) an
30 opportunity to submit an offer to purchase the development, in
31 compliance with subdivisions (g) and (h). An owner of an assisted
32 housing development in which there will be the expiration of rental
33 restrictions must also provide each of the entities listed in
34 subdivision (d) an opportunity to submit an offer to purchase the
35 development, in compliance with subdivisions (g) and (h). An
36 owner who meets the requirements of Section 65863.13 shall be
37 exempt from this requirement.

38 (c) An owner of an assisted housing development shall not sell,
39 or otherwise dispose of, the development ~~in a manner that would~~
40 ~~result in either (1) a discontinuance of its use as an assisted housing~~

1 ~~development, or (2) the termination or expiration of any~~
2 ~~low income use restrictions that apply to the development,~~ unless
3 the owner or its agent shall first have provided each of the entities
4 listed in subdivision (d) an opportunity to submit an offer to
5 purchase the development, in compliance with subdivisions (g)
6 and (h). An owner who meets the requirements of Section
7 65863.13 shall be exempt from this requirement.

8 (d) The entities to whom an opportunity to purchase shall be
9 provided include only the following:

- 10 (1) The tenant association of the development.
11 (2) Local nonprofit organizations and public agencies.
12 (3) Regional or national nonprofit organizations and regional
13 or national public agencies.
14 (4) Profit-motivated organizations or individuals.

15 (e) For the purposes of this section, to qualify as a purchaser of
16 an assisted housing development, an entity listed in subdivision (d)
17 shall do all of the following:

18 (1) Be capable of managing the housing and related facilities
19 for its remaining useful life, either by itself or through a
20 management agent.

21 (2) Agree to obligate itself and any successors in interest to
22 maintain the affordability of the assisted housing development for
23 households of very low, low, or moderate income for either a
24 30-year period from the date that the purchaser took legal
25 possession of the housing or the remaining term of the existing
26 federal government assistance specified in subdivision (a) of
27 Section 65863.10, whichever is greater. The development shall be
28 continuously occupied in the approximate percentages that those
29 households who have occupied that development on the date the
30 owner gave notice of intent or the approximate percentages
31 specified in existing use restrictions, whichever is higher. This
32 obligation shall be recorded prior to the close of escrow in the
33 office of the county recorder of the county in which the
34 development is located and shall contain a legal description of the
35 property, indexed to the name of the owner as grantor. An owner
36 that obligates itself to an enforceable regulatory agreement that
37 will ensure for a period of not less than 30 years that rents for units
38 occupied by low- and very low income households or that are
39 vacant at the time of executing a purchase agreement will conform
40 with restrictions imposed by Section 42(f) of the Internal Revenue

Code shall be deemed in compliance with this paragraph. In addition, the regulatory agreement shall contain provisions requiring the renewal of rental subsidies, should they be available, provided that assistance is at a level to maintain the project's fiscal viability.

(3) Local nonprofit organizations and public agencies shall have no member among their officers or directorate with a financial interest in assisted housing developments that have terminated a subsidy contract or prepaid a mortgage on the development without continuing the low-income restrictions.

(f) If an assisted housing development is not economically feasible, as defined in paragraph (3) of subdivision (h) of Section 17058 of the Revenue and Taxation Code, a purchaser shall be entitled to remove one or more units from the rent and occupancy requirements as is necessary for the development to become economically feasible, provided that once the development is again economically feasible, the purchaser shall designate the next available units as low-income units up to the original number of those units.

(g) (1) If an owner decides to terminate a subsidy contract, or prepay the mortgage pursuant to Section 65863.10, or sell or otherwise dispose of the assisted housing development pursuant to subdivision (b) or (c), or if the owner has an assisted housing development in which there will be the expiration of rental restrictions, the owner shall first give notice of the opportunity to offer to purchase to each qualified entity on the list provided to the owner by the department, in accordance with subdivision (o), as well as to those qualified entities that directly contact the owner. The notice of the opportunity to offer to purchase must be given prior to or concurrently with the notice required pursuant to Section 65863.10 for a period of at least 12 months. The owner shall contact the department to obtain the list of qualified entities. The notice shall conform to the requirements of subdivision (h) and shall be sent to the entities by registered or certified mail, return receipt requested. The owner shall also post a copy of the notice in a conspicuous place in the common area of the development.

(2) If the owner already has a bona fide offer to purchase from an entity prior to January 1, 2001, at the time the owner decides to sell or otherwise dispose of the development, the owner shall not

1 be required to comply with this subdivision. However, the owner
2 shall notify the department of this exemption and provide the
3 department a copy of the offer.

4 (h) The initial notice of a bona fide opportunity to submit an
5 offer to purchase shall contain all of the following:

6 (1) A statement that the owner will make available to each of
7 the type of entities listed in subdivision (d), within 15 business
8 days of receiving a request therefor, the terms of assumable
9 financing, if any; the terms of the subsidy contract, if any; and
10 proposed improvements to the property to be made by the owner
11 in connection with the sale, if any.

12 (2) A statement that each of the type of entities listed in
13 subdivision (d) has the right to purchase the development under
14 this section.

15 (3) A statement that the owner will make available to each of
16 the type of entities listed in subdivision (d), within 15 business
17 days of receiving a request therefor, itemized lists of monthly
18 operating expenses, capital improvements as determined by the
19 owner made within each of the two preceding calendar years, the
20 amount of project reserves, and copies of the two most recent
21 financial and physical inspection reports on the development, if
22 any, filed with the federal, state, or local agencies.

23 (4) A statement that the owner will make available to each of
24 the entities listed in subdivision (d), within 15 business days of a
25 request therefor, the most recent rent roll listing the rent paid for
26 each unit and the subsidy, if any, paid by a governmental agency
27 as of the date the notice of intent was made pursuant to Section
28 65863.10, and a statement of the vacancy rate at the development
29 for each of the two preceding calendar years.

30 (5) A statement that the owner has satisfied all notice
31 requirements pursuant to subdivision (b) of Section 65863.10,
32 unless the notice of opportunity to submit an offer to purchase is
33 delivered more than 12 months prior to the anticipated date of
34 termination, prepayment, or expiration of rental restrictions.

35 (i) If a qualified entity elects to purchase an assisted housing
36 development, it shall make a bona fide offer to purchase the
37 development. A qualified entity's bona fide offer to purchase shall
38 identify whether it is a tenant association, nonprofit organization,
39 public agency, or profit-motivated organizations or individuals
40 and shall certify, under penalty of perjury, that it is qualified

pursuant to subdivision (e). During the first 180 days from the date of an owner's bona fide notice of the opportunity to submit an offer to purchase, an owner shall accept a bona fide offer to purchase only from a qualified entity. During this 180-day period, the owner shall not accept offers from any other entity.

(j) When a bona fide offer to purchase has been made to an owner, and the offer is accepted, a purchase agreement shall be executed.

(k) Either the owner or the qualified entity may request that the fair market value of the property, as a development, be determined by an independent appraiser qualified to perform multifamily housing appraisals, who shall be selected and paid by the requesting party. All appraisers shall possess qualifications equivalent to those required by the members of the Appraisers Institute. This appraisal shall be nonbinding on either party with respect to the sales price of the development offered in the bona fide offer to purchase, or the acceptance or rejection of the offer.

(l) During the 180-day period following the initial 180-day period required pursuant to subdivision (i), an owner may accept an offer from a person or an entity that does not qualify under subdivision (e). This acceptance shall be made subject to the owner providing each qualified entity that made a bona fide offer to purchase the first opportunity to purchase the development at the same terms and conditions as the pending offer to purchase, unless these terms and conditions are modified by mutual consent. The owner shall notify in writing those qualified entities of the terms and conditions of the pending offer to purchase, sent by registered or certified mail, return receipt requested. The qualified entity shall have 30 days from the date the notice is mailed to submit a bona fide offer to purchase and that offer shall be accepted by the owner. The owner shall not be required to comply with the provisions of this subdivision if the person or the entity making the offer during this time period agrees to maintain the development for persons and families of very low, low, and moderate income in accordance with paragraph (2) of subdivision (e). The owner shall notify the department regarding how the buyer is meeting the requirements of paragraph (2) of subdivision (e).

(m) This section shall not apply to any of the following: a government taking by eminent domain or negotiated purchase; a forced sale pursuant to a foreclosure; a transfer by gift, devise, or

1 operation of law; a sale to a person who would be included within
2 the table of descent and distribution if there were to be a death
3 intestate of an owner; or an owner who certifies, under penalty of
4 perjury, the existence of a financial emergency during the period
5 covered by the first right of refusal requiring immediate access to
6 the proceeds of the sale of the development. The certification shall
7 be made pursuant to subdivision (p).

8 (n) Prior to the close of escrow, an owner selling, leasing, or
9 otherwise disposing of a development to a purchaser who does not
10 qualify under subdivision (e) shall certify under penalty of perjury
11 that the owner has complied with all provisions of this section and
12 Section 65863.10. This certification shall be recorded and shall
13 contain a legal description of the property, shall be indexed to the
14 name of the owner as grantor, and may be relied upon by good faith
15 purchasers and encumbrances for value and without notice of a
16 failure to comply with the provisions of this section.

17 Any person or entity acting solely in the capacity of an escrow
18 agent for the transfer of real property subject to this section shall
19 not be liable for any failure to comply with this section unless the
20 escrow agent either had actual knowledge of the requirements of
21 this section or acted contrary to written escrow instructions
22 concerning the provisions of this section.

23 (o) The department shall undertake the following
24 responsibilities and duties:

25 (1) Maintain a form containing a summary of rights and
26 obligations under this section and make that information available
27 to owners of assisted housing developments as well as to tenant
28 associations, local nonprofit organizations, regional or national
29 nonprofit organizations, public agencies, and other entities with an
30 interest in preserving the state's subsidized housing.

31 (2) Compile, maintain, and update a list of entities in
32 subdivision (d) that have either contacted the department with an
33 expressed interest in purchasing a development in the subject area
34 or have been identified by the department as potentially having an
35 interest in participating in a right-of-first-refusal program. The
36 department shall publicize the existence of the list statewide. Upon
37 receipt of a notice of intent under Section 65863.10, the
38 department shall make the list available to the owner proposing the
39 termination, prepayment, or removal of government assistance or
40 to the owner of an assisted housing development in which there



1 will be the expiration of rental restrictions. If the department does
2 not make the list available at any time, the owner shall only be
3 required to send a written copy of the opportunity to submit an
4 offer to purchase notice to the qualified entities which directly
5 contact the owner and to post a copy of the notice in the common
6 area pursuant to subdivision (g).

7 (p) (1) The provisions of this section may be enforced either
8 in law or in equity by any qualified entity entitled to exercise the
9 opportunity to purchase and right-of-first-refusal under this
10 section, that has been adversely affected by an owner's failure to
11 comply with this section.

12 (2) An owner may rely on the statements, claims, or
13 representations of any person or entity that the person or entity is
14 a qualified entity as specified in subdivision (d), unless the owner
15 has actual knowledge that the purchaser is not a qualified entity.

16 (3) If the person or entity is not an entity as specified in
17 subdivision (d), that fact, in the absence of actual knowledge as
18 described in paragraph (2), shall not give rise to any claim against
19 the owner for a violation of this section.

20 (q) It is the intent of the Legislature that the provisions of this
21 section are in addition to, but not preemptive of, applicable federal
22 laws governing the sale, or other disposition of a development that
23 would result in either (1) a discontinuance of its use as an assisted
24 housing development or (2) the termination or expiration of any
25 low-income use restrictions that apply to the development.

26 (r) This section shall remain in effect only until January 1,
27 2011, and as of that date is repealed, unless a later enacted statute,
28 which is enacted on or before January 1, 2011, deletes or extends
29 that date.

